

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF WEST VIRGINIA
AT CHARLESTON

UNITED STATES OF AMERICA

v.

CRIMINAL ACTION NO. 2:22-00135

MELANIE CLODFELTER

MEMORANDUM OPINION AND JUDGMENT ORDER

Pending before the court is defendant Melanie Clodfelter's Pro Se Motion for Modification of Sentence Pursuant to 18 U.S.C. 3582(c)(2) (Retroactive Guideline Amendment 821), [ECF No. 67], filed on January 17, 2024, wherein defendant requests a modification or reduction to her sentence, requests appointment of counsel, and permission to proceed in forma pauperis. Parts A and B, subpart 1 of the criminal history amendment both have retroactive effect.

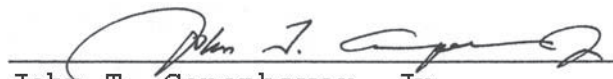
On November 1, 2023, a multi-part criminal history amendment designated as Amendment 821 in Appendix C to the *Guidelines Manual* became effective. Part A of the amendment addresses status points (additional criminal history points added for having committed the instant offense while under a criminal justice sentence), decreasing them by one point for

individuals with seven or more criminal history points (other than status points) and eliminating status points for those with six or fewer criminal history points. Subpart 1 of Part B creates a new §4C1.1 guideline that provides a decrease of two offense levels for "Zero-Point Offenders" (those with no criminal history points) whose offense did not involve specified aggravating factors.

Inasmuch as the defendant, when sentenced herein on February 22, 2023, was not assessed any status points (rather, her Criminal History Category of II is based on two criminal history points for prior convictions, none of which are status points), and inasmuch as the defendant's two criminal history points indicates she is not a Zero-Point Offender, her motion for modification or reduction of sentence and appointment of counsel is hereby ORDERED denied.

The Clerk is DIRECTED to send a copy of this Order to Defendant, the United States Attorney, the United States Probation Office, and the United States Marshals.

ENTER: April 4, 2024



John T. Copenhagen, Jr.
Senior United States District Judge